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82-515

No.

# In the Supreme Court
OF THE
# United States

OCTOBER TERM, 1981

WILLIAM J. MURPHY, JR.,
*Petitioner,*

VS.

UNITED STATES OF AMERICA,
*Respondent,*

**On Certiorari from the Court of Appeals,
For the Third Circuit**

## APPENDIX TO PETITION FOR CERTIORARI CRIMINAL CASE

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UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

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No. 81-3088

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UNITED STATES OF AMERICA,

Respondent,

vs.

WILLIAM M. MURPHY, JR.,

Appellant.

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On Appeal from the United States
District Court for the
District of Delaware
Crim. No. 81000016

Argued June 10, 1982

Before: ADAMS and WEIS, Circuit Judges,
and CONABOY, District Judge.*

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JUDGMENT ORDER

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After considering all contentions raised by appellant, namely, that (1) the government failed in its obligations to prove a payment to Murphy by Gregory on November 9, 1977, because of the trial court's conclusion

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* Hon. Richard P. Conaboy, United States District Court for the Middle District of Pennsylvania, sitting by designation.

that Gregory's testimony would not support a jury verdict, and the reliance by the government on a taped conversation relating to an incident which could not have happened on that date; (2) the trial court erred in denying defendant's motion for a new trial on the ground of newly discovered evidence; (3) there was a variance between the allegations of the indictment and the evidence introduced at trial regarding the victim of the alleged extortion which amounted to a constructive amendment of the indictment; (4) the court below erred in refusing to give co-conspirator or accomplice intruction to the jury; (5) the government failed to prove any depletion of assets of Blue Hen Associates and this issue was improperly submitted to the jury; and (6) the trial court erred in excluding the testimony of Senator Jacob Zimmerman as impreachment testimony on a collateral issue, it is

ADJUDGED AND ORDERED that the judgment of the district court be and it is hereby affirmed.

BY THE COURT,

/s/
Circuit Judge

/s/ Sally Mrvos
Sally Mrvos, Clerk

DATED: JUN 22 1982

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 81-3088

UNITED STATES OF AMERICA

vs.

WILLIAM M. MURPHY, JR.,
Appellant.

SUR PETITION FOR REHEARING
EN BANC

Present: SEITZ, Chief Judge, AIDISERT, ADAMS, GIBBONS, HUNTER, WEIS, GARTH, HIGGINBOTHAM, SLOVITNER AND BECKER, Circuit Judges, and CONABOY, District Judge.*

The petition for rehearing filed by Appellant in the above entitled case having been submitted to the judges who participated in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

By the court,

/s/
Circuit Judge

DATED: JUL 21 1982

* Hon. Richard P. Conaboy, U.S. District Court for the Middle District of Pennsylvania, sitting by designation.